



Santos

Commercially Driven Social Benefit

A Structured Approach to Aboriginal Engagement

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APPEA – 18 May 2010

Introduction

- Aboriginal engagement is necessary
- Current
 - Minimal legal compliance v CSR
 - CSR is charity v social licence to operate
- Need is SLO and Access
- Santos model proposes a tighter link between community outcomes and project outcomes
- Involves commercial benefit and risk management



Introduction - Sustainability

Sustainability

- New projects require legal compliance for access and thus an Aboriginal seat at the table
- Negotiation = planning for mutual sustainability
- Planning for sustainability creates greater certainty for all parties
- Negotiation table is the practical approach to fpic
- Adversarial negotiation v continued community support to ensure ongoing access (ICMM)



Mutual Benefit: Aboriginal peoples and the resources sector

- How can mutual benefit be achieved
- Focus on commercial outcomes
- Commercially driven social benefit approach helps company manage risk of delay, cost and legal action
- CDSB helps Aboriginal communities achieve sustainable outcomes
- Facilitated by negotiation
 - People bring legal, political, historical baggage to the table
 - Most common approach is adversarial
 - Can use constructive or restorative approach to negotiation
 - Sustainability focus



A seat at the table

Negotiation table

- Native Title Act has been hit and miss in the certainty stakes
- Negotiation outcomes variable
- ALRA 1976, Mabo, NTA 1993 other LRAs set the scene
- Co-existence = seat at the table
- Also cultural heritage laws
- International standards



Impact and Uncertainty

Is there a menu?

- No universal standard either at law or as a negotiation method
- LRs, NT and CH all create different Aboriginal negotiation parties
- Eg CHMP with different Aboriginal Party under ACHA in QLD to RTN native title party
- No set negotiation standards
- Thus variation in outcomes
- Compounded by minimal legal compliance model using adversarial approach to negotiation in a rights-based context



New Method?

- Adversarial and minimal legal compliance context
- Also poor internal governance – a set and forget approach
- Low level of importance assigned to negotiation with Aboriginal peoples, no policy, no staff, simple compliance approach, poor internal decision-making around this space
- This approach increases risk
- Santos view is that this risk profile for projects is unacceptable



Risk Management

- Santos approach
- Aboriginal Engagement Policy
- Integration of native title and cultural heritage with employment and training, enterprise development and capacity development in negotiations
- Also improved internal governance including authority to negotiate tool
- Adoption of an Interest-based negotiation method



Employment and training

- Has been part of Santos approach in the past but as best endeavours
- Variable or not set employment and training standards
- Importance illustrated by Australian Employment Covenant and Generation One
- Some Aboriginal parties seek to remove E and T from negotiation as they believe it should be a standard already in place by company
- E and T outcomes improved and made sustainable by procurement initiatives



Procurement Initiatives

- Capability Assurance Partner Model
- A JV approach
- An example may be road building for a project
 - New road building company formed by Aboriginal group
 - Pre-existing company JV with new company to provide service at require level
 - EPC company awards contract to JV
 - JV junior partner buys out senior partner after a period



JV Aboriginal business model

- Not really an “Aboriginal business” the JV is a “business” business
- Capacity and risk issues managed by JV approach
- Sustainability achieved by broadening contract base
- Problem areas are governance within JV and new contract forms
- Benefits include refocus of community on active involvement in future rather than benefit distribution
- Commercial link between company and community



Conclusion

- CSR shouldn't be the only tool in the box
- Greater commercial focus helps manage risks of delay, cost and legal action and variability of outcomes for Aboriginal communities
- Model has helped deliver successful negotiation outcomes for Santos
- Aboriginal people have a seat at the table
- Minimal legal compliance is not a good use of the opportunity
- Focus on commercial outcomes
- Integration of Employment and training into negotiation, interest-based negotiation method and internal governance provide structural basis for successful and sustainable negotiation outcomes
- A direct approach to “closing the gap”

